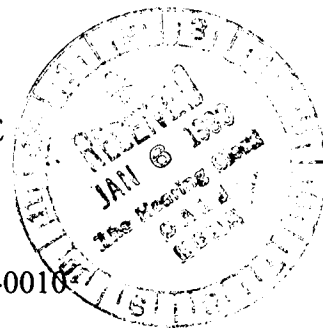


Service

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:) PACA Docket No. D-98-0010
)
James T. Whitlock, d/b/a Garden)
Fresh Produce Company,)
)
Respondent)

DECISION WITHOUT HEARING BY REASON OF CONSENT

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a et seq.) (PACA). January 15, 1998, Complainant filed a complaint alleging that Respondent willfully, flagrantly and repeatedly violated section 2(4) of the PACA (7 U.S.C. § 499b(4)) by making, for a fraudulent purpose, false and misleading statements in connection with transactions involving perishable agricultural commodities by altering seven United States Department of Agriculture inspection certificates issued from April 1996 through October 1996. The complaint requested the issuance of an order suspending Respondent's PACA license for 90 days. Respondent filed an answer, denying liability.

The parties have now agreed to the entry of a Decision Without Hearing by Reason of Consent as set forth herein. Therefore, this Decision Without Hearing by Reason of Consent is entered without further procedure or hearing pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

Findings of Fact

1. Respondent, James T. Whitlock d/b/a Garden Fresh Produce Company, is an individual whose business mailing address is Box 8117, Mission, Texas 78572.

2. At all times material herein, Respondent was licensed under the provisions of the PACA. License number 900040 was issued to Respondent on October 4, 1989. The license has been renewed annually, is presently in effect, and is subject to renewal on or before October 4, 1999.

3. During the period April 1996 through October 1996, Respondent made, for a fraudulent purpose, false and misleading statements in connection with transactions involving perishable agricultural commodities by altering seven United States Department of Agriculture inspection certificates.

Conclusion

Respondent's making, for a fraudulent purpose, of false and misleading statements in connection with transactions involving perishable agricultural commodities, as set forth in Finding of Fact 3 above, constitutes willful, flagrant and repeated violations of section 2(4) of the PACA.

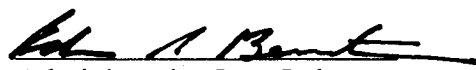
Order

Respondent's PACA license is suspended for 90 days. However, this suspension shall be held in abeyance and, in lieu of the suspension, Respondent shall pay a civil penalty in the amount of \$75,000 in accordance with the terms of the Understanding With Respect to Civil Penalty and Payment Terms entered into between Complainant and Respondent. If Respondent fails to satisfy the civil penalty in accordance with the Understanding With Respect to Civil Penalty and Payment Terms, the 90 day suspension of Respondent's PACA license shall automatically commence upon notice to Respondent without further procedure.

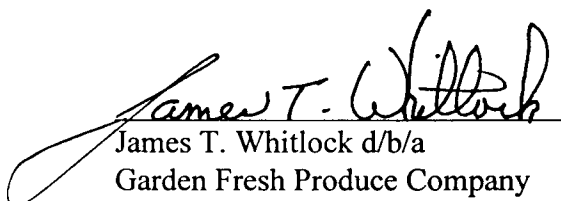
This order shall become final upon issuance. Copies of this order shall be served upon the parties.

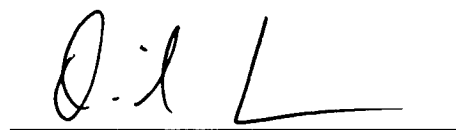
Done at Washington, D.C.

this 6 of JAN, 1998 9

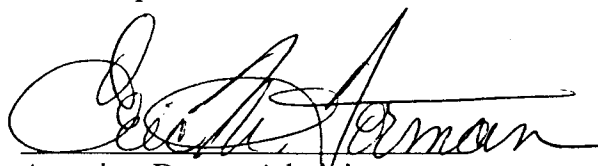

Administrative Law Judge

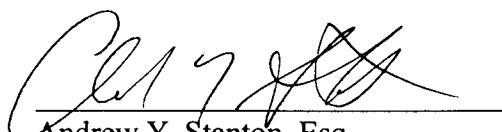
For Respondent


James T. Whitlock d/b/a
Garden Fresh Produce Company


David Casso, Esq.
Attorney for Respondent

For Complainant


Associate Deputy Administrator
Fruit and Vegetable Programs
Agricultural Marketing Service


Andrew Y. Stanton, Esq.
Attorney for Complainant